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**IN THE
COURT OF APPEALS OF INDIANA**

ERIC SARVER,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 49A02-0606-CR-533
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Steven Rubick, Commissioner
Cause No. 49G04-0510-FB-180824

MAY 16, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

GARRARD, Senior Judge

Eric Sarver was convicted of arson after a bench trial. His appeal challenges the sufficiency of the evidence to establish the necessary element of intent.

The evidence disclosed that Thelma Sarver had rented a house on North Colorado Street, Marion County, from Harry McNeely. Jane Taylor, Thelma's sister had moved into the house because she was ill. About a month before the fire Thelma died, and Mr. McNeely told Ms. Taylor she could not continue to live there. At some point, Eric Sarver, who was Taylor's son, also moved into the house.

McNeely formally evicted Taylor and Sarver, and they were ordered to leave by October 15, 2005. When he visited the home on October 17, however, he found they were still there. Sarver threatened to assault McNeely and said that if he could not live there, nobody else would. Sarver said he would burn down the house before he would be forced to move.

On October 18, Sarver helped Taylor prepare to move. Taylor was not in good health, and around noon, she lay down for a nap. Sarver threw his property, including clothes and a mattress into a pile beside the house. He poured gasoline on the pile and lit it. This fire quickly spread from the pile to the side of the house and the front porch.

A neighbor saw the fire and came to investigate. She asked Sarver if anyone was inside the home. He said, "who's ever in there can die" and rode off on his bicycle.

A police officer arrived and helped Ms. Taylor out of the house. The fire caused substantial damage to the house. Sarver was arrested later that day. He was charged and convicted of arson as a Class B felony.

Ind. Code § 35-43-1-1 provides in pertinent part,

- (a) A person who, by means of fire ...knowingly or intentionally damages:
 - (2) property of any person under circumstances that endanger human life; ...commits arson, a Class B felony.

Sarver acknowledges on appeal that we may neither reweigh the evidence nor redetermine the credibility of witnesses. Of course, when the sufficiency of the evidence is raised on appeal, we have the duty to make sure that the evidence and the reasonable inferences to be drawn therefrom are indeed sufficient. The evidence is insufficient when no rational factfinder could have found the defendant guilty beyond a reasonable doubt. *Matthews v. State*, 718 N.E.2d 807, 810 (Ind. Ct. App. 1999); *Cuto v. State*, 709 N.E.2d 356, 362 (Ind. Ct. App. 1999).

It is not disputed that Sarver piled his belongings next to the house, poured gasoline on them and set them on fire. The previous day he had told the landlord that he would burn down the house before he would be forced to move. When the neighbor came over after the fire was started, Sarver told her “who’s ever in there can die.” Rather than attempting to put out the fire, Sarver jumped on his bicycle and rode away.

From this evidence and the reasonable inferences it supports, a rational factfinder could have found Sarver guilty beyond a reasonable doubt. It follows that the evidence was sufficient.

Affirmed.

DARDEN, J., and ROBB, J., concur.